IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 359 of 2004.
Date of Decision : 25.5.2011.

Gurmit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE NAWAB SINGH

Present: Mr. D.S. Gurna, Advocate,
for the petitioner.

Mr. Ranvir S. Chauhan, Addl. AG, Punjab,
assisted by Mr. Pardeep Kumar, Asst. Drug Controller, Govt. of Punjab, Chandigarh.

NAWAB SINGH J.(ORAL)

Challenge is to the order dated November 22nd, 2003 passed by Special Judge, Fatehgarh Sahib, whereby, petitioner was ordered to be charged under Section 21 & 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the NDPS Act') and was charge-sheeted accordingly.

2. The petitioner is a registered Medical Practitioner. On August 29th, 2003 he was found in possession of four drugs which are as under:-

1.288 tablets of Spasmorex

2.10 injections of Burpronorphine

3.350 tablets of Lomofin

4.430 tablets of Diazepam

3. The drugs were sent to the Forensic Science Laboratory, Punjab, Chandigarh for analysis. It was found containing following ingredients:-

Quantity of	***Parcel No.***			
	1.	2.	3.	4
Buprenorphine Hydrochloride (Average mg/ml)	0.29			
Dicyclomine Hydrochloride (Average mg/cap.)		19.3		

Quantity of	***Parcel No.***			
Paracetamol (Average mg/caps)		498.9		
Diazepam (Average mg/tabs)			4.8	
Diphenoxylate Hydrochloride (Average mg/cap)				2.3
Atropine Sulphate (do)				0.023
Furazolodine (do)				49.8

4. Learned State counsel has submitted that technical opinion of the Drug Inspector was sought as mentioned in the report of the Review Committee (Annexure P-9) and it was opined that no offence under Section 21 & 22 of the NDPS Act is made out against the petitioner but since the petitioner did not produce documents of sale, purchase etc. so, he committed offence punishable under the provisions of Drugs and Cosmetics Act, 1940.

5. In view of this, the revision petition is accepted and the order under challenge is set aside. The petitioner stands discharged. However, the prosecution is at liberty to prosecute the petitioner under the Drugs & Cosmetics Act, 1940 or any other law for the time being in force, if so advised.

(NAWAB SINGH)
JUDGE

25.5.2011.
SN